

**ANNUAL PROTECTION & ADVOCACY OF INDIVIDUAL RIGHTS (PAIR)
PROGRAM PERFORMANCE REPORT**

Fiscal Year 2001

DESIGNATED AGENCY IDENTIFICATION		
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PART I. NON-CASE SERVICES:		
A. Individual Information and Referral Services (I&R):		
(Multiple responses are not permitted.)		
1. Individuals receiving I&R <u>within</u> PAIR's priority areas	3,262	
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas	6,872	
3. Total individuals receiving I&R (lines A1+A2)	10,134	
B. Training Activities:		
1. Number of trainings presented by PAIR staff	9	
2. Number of individuals who attended these trainings (approximate)	300	
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.		
Date	Title of Presentation	Audience
04/13/01	Overview of DRVD	Partner in Policymaking, Board for People with Disabilities
04/17/01	Overview of DRVD	Denbigh Senior Citizens Group
04/21/01	Overview of DRVD	Office of the Commonwealth Attorney, Consumer Affairs Division
04/26/01	Overview of DRVD	Disability Resource Center
06/14/01	Panel Discussion on Advocacy	VATS Conference 2001
08/02/01	Accessibility in Voting for People with Disabilities	SBS Summer Registrar's Training
08/24/01	Overview of DRVD	Managing the Financial and Legal Challenges of Having Children with Disabilities, Pre-Paid Legal Services

08/24/01	ADA Title 1: Employment Rights	Vector Industries
09/06/01	Accommodations for Patients with Hearing Impairments	Hospital Representatives, (Tidewater)

C. Information Disseminated to the Public:

1. Radio and TV appearances by PAIR staff	1
2. Newspaper/magazine/journal articles	6
3. PSAs/videos aired	0
4. Hits on the PAIR/P&A website	Unknown
5. Publications/booklets/brochures disseminated	919
6. Other (specify on separate sheet)	

* These were articles published about the P&A in the newspaper not articles published by the P&A.

PART II. INDIVIDUALS SERVED:

A. Individuals Served: (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)

1. Individuals who were still being served as of October 1 (carryover from prior fiscal year)	54
2. Additional individuals who were served during the year	131
3. Total individuals served (lines A1+A2)	185
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.)	0

B. Individuals still served as of September 30 (carryover to next year) (May not exceed total on line II.A.3 above.)

C. Problem Areas/Complaints of Individuals Served:

1. Architectural accessibility	37
2. Employment	18
3. Program access	74
4. Housing	1
5. Government benefits/services	0
6. Transportation	21
7. Education	51
8. Assistive technology	0
9. Voting	0
10. Health care	2
11. Insurance	1
12. Non-government services	0
13. Privacy rights	1
14. Access to records	0
15. Abuse	1
16. Neglect	2
17. Other	2

D. Reasons for Closing Individual's Case Files:

1. Issues resolved partially or completely in the individual's favor	127
2. Other representation found	0
3. Individual withdrew complaint	5

4. Appeals were unsuccessful	0
5. PAIR services not needed due to individual's death, relocation, etc.	0
6. PAIR withdrew from case	0
7. PAIR unable to take case because of lack of resources	0
8. Individual's case lacks legal merit	3
9. Other (Please explain on separate sheet.) <i>No response from client.</i>	5
E. Intervention Strategies Used in Serving Individuals: (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	
1. Technical assistance in self-advocacy	74
2. Short-term assistance	10
3. Investigation/monitoring	0
4. Negotiation	59
5. Mediation/alternative dispute resolution	0
6. Administrative hearings	0
7. Litigation (including class actions)	14
8. Systemic/policy activities* Issues 2, 4, and 5 described under Part IV, Systemic activities	0
F. Satisfaction of Individuals Served:	
1. Number of satisfaction surveys distributed	140
2. Number of satisfaction surveys returned	29
3. Of the total number of surveys returned, indicate how many individuals rated their overall satisfaction with PAIR in the following ways:	
a. very satisfied	17
b. satisfied	9
c. not satisfied	3
4. Of the total number of surveys returned, indicate whether the individual served would use PAIR again:	
a. yes	26
b. no (<i>* one respondent indicated "not sure" bringing total to 29.</i>)	2*
PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:	
A. Age of Individuals Served: (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	2
2. 5 - 22	48
3. 23 - 59	105
4. 60 - 64	11
5. 65 and over	17
* Two unknown	
B. Gender of Individuals Served: (Multiple responses not permitted)	
1. Females	92
2. Males	93
C. Race/Ethnicity of Individuals Served: (Multiple responses permitted)	
1. White	145
2. Black or African American	37
3. American Indian or Alaska Native	0
4. Asian	1

5. Native Hawaiian or other Pacific Islander	0
6. Hispanic or Latino	2
7. Race/ethnicity unknown	0
D. Living Arrangements of Individuals Served: (Multiple responses not permitted)	
1. Independent	117
2. Parental or other family home	54
3. Community residential home	0
4. Foster care	0
5. Nursing home	2
6. Public institutional living arrangement	0
7. Private institutional living arrangement	2
8. Jail/prison/detention center	10
9. Homeless	0
10. Other living arrangements	0
11. Living arrangements not known	0
E. Primary Disability of Individuals Served: (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
1. Blind/visual impairment	15
2. Deaf/hard of hearing	28
3. Deaf-blind	0
4. Orthopedic impairment	33
5. Mental illness	13
6. Substance abuse	0
7. Mental retardation	0
8. Learning disability	16
9. Neurological impairment	9
10. Respiratory impairment	1
11. Heart/other circulatory impairment	5
12. Muscular/skeletal impairment	5
13. Speech impairment	2
14. AIDS/HIV	0
15. Traumatic brain injury	4
16. Other disability	54
PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:	
A. Systemic Activities:	
1. Number of policies/practices changed as a result of non-litigation systemic activities Issue 1: 75 (in addition to 450 last fiscal year) Issue 2: 1 practice Issue 3: 2 policies Issue 4: 2 policies Issue 5: 3 policies, 1 practice	83

<p>2. Number of individuals potentially impacted by policy changes</p> <p>Issue 1: 1,000,000 (approximate) people with disabilities in the Commonwealth</p> <p>Issue 2: 781,489 potential voters with disabilities (at any point in time)</p> <p>Issue 3: Unknown, would affect any current and future deaf inmates</p> <p>Issue 4: 200+ (would affect all future and current riders)</p> <p>Issue 5: 10,000 eligible riders and all future eligible riders</p>	<p>1,000,000</p>
<p>Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served. (Attach separate sheets if necessary.)</p>	
<p>1. ADA Statewide Campaign. DRVD completed its ADA Accessibility Campaign. DRVD entered into settlement agreements with approximately 75 additional public accommodations, bringing the total number of public accommodations agreeing to come into full compliance with the ADA and ADAAG to approximately 525.</p> <p>2. Voting Accessibility. PAIR continued this fiscal year to work collaboratively with the Virginia State Board of Elections (SBE) Task Force to identify barriers to accessibility for persons with disabilities at the polls, and to find ways to eliminate these barriers. Building upon last year's legislative initiatives, the Task Force was instrumental in revising the Virginia voter registration form to include the addition of a question regarding the need for accommodations at the polling place. DRVD also continues to assist the SBE in providing training for Registrars on disability-related issues. This year's training was entitled, "Accessibility in Voting for People with Disabilities," and again this year was provided in collaboration with the Department for the Deaf and Hard of Hearing. Twenty-seven election officials attended this 90-minute workshop. In addition, and at the request of the SBE, DRVD prepared a document entitled, "Voters with Disabilities: What Election Officials Need to Know," to be added to the SBE web site. During this fiscal year, the SBE, required localities to perform a self-evaluation to determine the accessibility of polling places in the Commonwealth. DRVD requested and received this survey information and will be working with the SBE to bring these localities into compliance with state and federal laws.</p> <p>As noted in last year's report, these changes will potentially benefit all disabled voters in Virginia. The U.S. Census Bureau estimates the overall disability rate to be 19.4% (the rate ranges from 5.8% for children under 18 years old, to 13.6% for persons 18 to 44 years old, to 29.2% for persons 45 to 63, and 53.9% for persons 65 and over). Using the 19.4% estimate, there are 781,489 persons who will be potentially affected by these changes.</p> <p>3. Services to Deaf Inmates. DRVD work resulted in two policy changes on behalf of nine deaf inmates. Inmates at a correctional facility had no access to TTY telephone or interpreter services. The PAIR attorney met with correctional staff, Department of Corrections attorneys, and Central Office Administrators. The Department of Corrections agreed to appoint an ADA Coordinator in the Central Office for all accommodation requests. The Department of Corrections acquired TTY telephones and modified its telephone usage policy to allow reasonable access to TTY telephones by deaf inmates. They also agreed to provide American Sign Language interpreters during all mental health appointments for deaf inmates and agreed to purchase televisions with closed captioning for dayroom use.</p>	

4. **Paratransit Services for People with Disabilities.** The Department advocated on behalf of disabled persons who use the paratransit service in the Town of Blacksburg and prevented the Town from implementing its proposed ordinance to (1) increase paratransit fares and (2) stop offering a reduced rate monthly pass to paratransit riders, the combination of which would have made the cost of the paratransit service prohibitive to many of its users. The Town's proposed increase would have raised the monthly transportation cost for regular users of the paratransit service by 500% beginning in July 2001. After the Department advocated on behalf of the paratransit riders, the Town of Blacksburg only slightly increased the paratransit fare, and continued to offer a reduced rate monthly pass to paratransit riders.
5. **Paratransit Services.** As a follow-up to its successful class action lawsuit against paratransit provider Hampton Roads Transit (HRT) formerly Tidewater Regional Transit (TRT) -- described in last year's federal program performance report -- DRVD continued to represent clients in the Hampton Roads area who were denied paratransit transportation following DRVD's successful class action litigation against this provider. DRVD made contact with HRT's attorney and entered into a settlement requiring the provider to improve performance. As a result of DRVD's advocacy, the provider has spent approximately \$200,000 to improve paratransit performance: the provider has purchased new scheduling software, has hired a new paratransit director, and an ADA consultant and will be providing DRVD with monthly reports on its progress in improving performance. HRT has also extended the settlement agreement to its full-service area and has issued refunds to riders who were overcharged for certain trips.

B. Litigation/Class Actions:

1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts	
(A) <u>Brinn v. Tidewater Transportation District Commission</u> , E.D.VA (Norfolk) Case No.: 2:99cv1637.	A. 10,000+
(B) <u>Commonwealth v. Plotkin</u> , Circuit Court of Arlington County, Case No.: CR01-94	B. Unlimited
2. Number of individuals named in class actions	A. 4 B. 1

Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation. (Attach separate sheets if necessary.)

Brinn: Plaintiffs brought this action on behalf of themselves and, as a class action, on behalf of all those similarly situated, alleging that Defendant, Tidewater Regional Transportation District t/a Tidewater Regional Transit (hereinafter "TRT"), a public entity which receives federal funding, its officers, employees, and those acting at its direction, failed and/or refused to provide necessary, and statutorily mandated, public transportation for individuals with disabilities and that such failure discriminates against individuals with disabilities in violation of the Americans with

Disabilities Act of 1990 (“ADA”), Section 504 of the Rehabilitation Act of 1973 and the regulations promulgated pursuant to each. Specifically, TRT failed/refused to provide paratransit transportation on a given day in response to a request made the previous day (“next day paratransit transportation”). TRT told persons with disabilities to call two weeks in advance to have any hope of receiving transportation. After negotiations failed, DRVD filed suit. DRVD filed a Motion for Preliminary Injunction and conducted depositions. In depositions, it was learned that the odds of a person receiving next-day paratransit transportation was one in ten. Based upon this and other information, DRVD filed a Motion for Summary Judgment. The case was settled ten days before argument on the Motion. TRT agreed to a permanent injunction requiring it to provide next-day paratransit transportation and agreed to submit monthly monitoring reports to DRVD for two years. DRVD was subsequently awarded over \$29,000 in attorneys fees. (The award of fees has been appealed by TRT.) In the appeal, heard this fiscal year, the United States Supreme Court of Appeals affirmed the District Court’s Order, holding that public entities are required to provide next-day paratransit transportation and holding that DRVD may be awarded attorneys fees. The fees were received and applied back to the PAIR program.

Plotkin: Ms. Plotkin has multiple chemical sensitivity, which severely affects her ability to travel to public places due to her extreme sensitivity to tobacco. She was charged with reckless driving and was to be tried in the Circuit Court of Arlington County, Virginia. DRVD represented Ms. Plotkin in a motion to have the venue of the hearing changed to a place that would not adversely affect Ms. Plotkin. As a result, the Court moved the trial to the Court’s ceremonial courtroom, which was only used a few times per year.

PART V. PAIR'S PRIORITIES AND OBJECTIVES:

For each of your PAIR program priorities for the fiscal year covered by this report, please provide the following information:

1. Identify and describe the priority.
2. Identify the need, issue or barrier addressed by this priority.
3. Identify and describe indicators PAIR used to determine successful outcome of activities pursued under this priority.
4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.
5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions.
6. Provide at least one case summary that demonstrates the impact of the priority.

Priority 1. To protect the rights and represent the interests of individuals who are being denied access to places of public accommodation by private sector entities, in violation of Title III of the Americans with Disabilities Act.

A. Needs Issues and Barriers Addressed

1. Denial of access to places of public accommodation by private sector entities, in violation of Title III of the Americans with Disabilities Act.
2. Denial of access and/or reasonable accommodations to persons with disabilities by hospitals and medical care facilities, in violation of ADA Title III.
3. Inaccessible retail establishments which are lottery retail licensees, in violation of ADA Title III, denying persons with disabilities the right to purchase lottery tickets at certain establishments and/or the right to purchase other items sold at these lottery outlets.

B. Indicators Used to Determine Successful Outcomes

Successful case closures, trainings held, settlement agreements confirmed, number of entities that have come into compliance with the ADA. Specifics relating to accomplishments under this priority are as follows:

Issue 1. 63 cases; 33 successful closures to date. DRVD continued to take on numerous individual cases related to denial of access to public accommodations. Case examples are below. In addition, the ADA Title III campaign, as described above in the Systems Activity portion of this report, was closed after having entered into settlement agreements, which resulted in over 520 public accommodations in Virginia agreeing to become compliant with the ADA and ADAAG. This included several large chains, including the largest Boddie-Noell, Inc., the largest Hardees franchise in the United States.

Issue 2. As described above, in the litigation section, DRVD has made substantial inroads toward making hospitals in Virginia accessible to persons with hearing impairments. In the previous fiscal year, DRVD filed a lawsuit against a hospital, which refused to provide a patient with a qualified sign language interpreter. The suit resulted in a settlement in which the client received financial compensation for her pain and suffering and the hospital entered into an agreement, which guarantees sign language interpreters for its patients with hearing impairments. This year, DRVD represented clients in two similar cases. One case was settled resulting in the client receiving a cash remedy and the hospital implementing a comprehensive policy to accommodate patients with hearing impairments. DRVD has opened and reached a tentative settlement in a third case based upon the same fact pattern. In the tentative settlement, the Plaintiff will receive financial compensation for her pain and suffering. In addition, the hospital has agreed to execute and implement a comprehensive plan, which will ensure that sign language interpreters are provided to persons who require them to communicate effectively. In addition, the parent corporation of the hospital has agreed to implement such plans at the other two hospitals it operates in the Hampton Roads, Virginia area. DRVD and the Virginia Hospital Association conducted a joint training, attended by representatives of over 20 hospitals, focusing on hospital's obligations to provide accommodations to deaf and hard of hearing patients. Because of the success of the first session, a second session will take place in November 2001. DRVD also successfully represented a client who had been denied an interpreter by a Virginia Department of Health facility. The facility agreed to provide the client with an interpreter, when needed. Finally, DRVD and the Virginia Department of Corrections have entered into a settlement agreement whereby the Department of Corrections will provide sign language interpreters to deaf and hard of hearing inmates for medical care and treatment.

Issue 3. This issue is complete. The Lottery Department has formalized procedures and now requires all its licensees to be compliant with the ADA and ADAAG.

B. Collaborative Efforts

Issue 1. DRVD worked with the Virginia Hospital Association to design and conduct a joint training, attended by representatives of over 20 hospitals, focusing on hospital's obligations to provide accommodations to deaf and hard of hearing patients.

Issue 2. All activities regarding this issue were conducted in collaboration with the State Lottery Department.

C. Number of Cases in Priority, including Class Actions: 63

D. Case Examples

Example 1. AN is a 6-year-old girl with multiple disabilities and is a wheelchair user. Her mother wanted to take her to her brother's baseball games, but the facility where he plays has no accessible parking spaces (despite having over 400 parking spaces for persons without disabilities), no accessible paths to the fields, and no accessible restrooms. DRVD advocated for AN and, as a result, the facility has designated the proper number of parking spaces, per ADAAG, for persons with disabilities and has redesigned its restrooms and snack bar to be accessible. The facility is in the process of making all of the pathways to its playing fields accessible.

Example 2. CD is a 35-year-old man with a traumatic brain injury which leaves him speech impaired and causes him to walk with a limp. CD went into a restaurant but was refused service because the waitress said he was drunk. DRVD represented CD. At present, the parties have entered into a tentative settlement whereby the restaurant will agree not to discriminate against persons with disabilities in the future and made a public apology to CD.

Example 3. GR is a preschool-aged child with spina bifida, who has a shunt and uses a wheelchair. The client's mother responded to a newspaper article announcing that the day care program at the local YMCA was accepting applications. She contacted the YMCA by phone and explained that she had three children she wished to enroll, including the client. Prior to interviewing the mother or assessing the child, the YMCA initially told her that they would have to seek additional funding to be able to meet the client's special needs. When the client's mother called back to find out how the search for additional funding was progressing, she was told she would have to seek this additional funding herself. The town's ADA coordinator was called upon and after several months mediated an agreement between the parties. However, the YMCA never fulfilled its obligation to enroll this child under the agreement. Instead, they informed the mother that they had met with the building inspector who had advised them they would have to put in an elevator and a sprinkler system if they allowed the client to be enrolled. The client's mother contacted DRVD. The DRVD staff attorney met with the client and his mother, the town's ADA Coordinator, the Executive Director of the CSB's Infant Intervention Program and a social worker from that program, the director of day care licensing at Social Services, and the director of the YMCA. After being advised of the relevant law, DRVD, in collaboration with the other entities represented at this meeting, was able to alleviate the YMCA's fears about caring for this child. Following this meeting DRVD received notification from the YMCA that all issues with the building inspector had been resolved, and they would accommodate the client.

Example 4. CO is a woman with a hearing impairment. She went to a hospital for medical and mental health treatment. Despite requesting an interpreter, she was not provided with one. DRVD represented CO against the hospital. As a result, the hospital agreed to a settlement where it provided a monetary settlement to CO and entered into a strict agreement with DRVD guaranteeing that persons with hearing impairments would be provided with interpreters in the future and committing itself to training all of its employees in recognizing and treating persons with hearing impairments.

Example 5. DB is a woman with a hearing impairment who went to a hospital for mental health treatment. Despite requests, she was not provided with an interpreter until her tenth day in the hospital. DRVD represented DB against the hospital. At present, the parties have agreed to a tentative settlement where the hospital will pay a monetary settlement to DB. The hospital also has agreed to enter into a strict agreement with DRVD guaranteeing that persons with hearing impairments would be provided with interpreters in the future and committing itself to training all of its employees in recognizing and treating persons with hearing impairments. In addition, two other hospitals owned by the hospital's parent company will enter into similar agreements with DRVD.

Example 6. The Department advocated on behalf of a client who had been denied service at a restaurant because she was blind and used a service animal. A PAIR staff attorney sent a demand letter to the restaurant's owner and negotiated a settlement that required the restaurant to refrain from discriminating against all persons with disabilities, and to place a "Service Animals Welcome" sign on the restaurant's entrance.

Priority 2. To protect the legal rights of individuals under Title II of the ADA who have (1) been denied physical access to state and/or local government buildings; or (2) been denied access to state or local government programs/services because they use a service animal or require an accommodation in order to access the program or service.

A. Needs Issues and Barriers Addressed

1. Denial of (1) physical access to state and local government entities; or (2) state or local government programs/services because the individual uses a service animal or requires an accommodation in order to access the government program or service.
2. Lack of accessibility of voting polling places for persons with disabilities, denying citizens of the Commonwealth their right to vote if they required particular accommodations.

B. Indicators Used to Determine Successful Outcomes

Successful case closures, settlement agreements confirmed, systems changes. Entities which have come into compliance with the ADA. Specifics relating to accomplishments under this priority are as follows.

Issue 1. 33 cases; 15 successful closures to date. In addition to individual casework, there were training efforts in this area. A PAIR staff attorney appeared on Virginia Currents Public STV, to an audience of approximately 1,000, presenting on the Title II Garrett V. Alabama case. This program was shown in various areas of the state. A staff attorney also conducted a presentation on the history of the ADA to the Youth Leadership Forum of the Virginia Board for People with Disabilities.

At the end of the fiscal year, tentative agreement was reached with the City of Roanoke Police Department to provide arrestees who are disabled with accessible transport to the police station.

Issue 2. Work on voting accessibility was reported above under the Systemic Issues portion of this report.

C. Collaborative Efforts

Issue 2. DRVD worked in collaboration with the State Board of Elections on this effort. See description of activities above.

D. Number of Cases in Priority, Including Class Actions: 33

E. Case Examples

Example 1. OH is an inmate with a hearing disability. He has been denied sign language interpreters at due process hearings and for medical care. Through DRVD advocacy, the Virginia Department of Corrections has changed its policy to require that sign language interpreters will be provided to deaf inmates at all future hearings implicating an inmate's right to due process (including grievance and disciplinary hearings) and for medical and mental health care treatment. The Department of Corrections further agreed to review all of OH's prior hearings and, at those in which he was denied an interpreter, to provide him with a re-hearing with a sign language interpreter.

Example 2. JP is a woman with multiple chemical sensitivity who was charged with reckless driving. Due to her disability, she could not appear at the courtroom assigned for her trial. DRVD filed a motion requesting that the hearing be moved to a place which was accessible to JP. The Court agreed to move the hearing to a courtroom which was not open to the public and only used for ceremonial occasions.

Example 3. AF is a single mother who is enrolled at a state university full-time. She experiences both depression and arthritis. She contacted DRVD concerned because her impairments sometimes cause her to miss classes. Despite not being able to attend all of her scheduled classes, she has consistently been named on the Dean's List. The problem was a recently revised written policy, outlined in the Disability Services Handbook with respect to allowable absences from classes. According to the director of the Disability Services, this policy had been changed due to the frequent abuse of a previous, more liberal policy. The revised policy stated, "...examples of classroom modifications include...allowing unanticipated absences (not to exceed the number of absences permitted by the instructor)." In other words, instructors were not required to modify

his or her policy regarding absences to accommodate a student who may have disability-related absences. This client had been forced to withdraw from several courses because her professors had insisted that she had missed too many classes and had violated their policy on absences. The DRVD staff attorney spoke several times to the director of Disability Services and also met with her and the client. An agreement was reached to change the language and the policy to read, "...examples of classroom modifications include...allowing unanticipated absences. Students must still meet the technical standards of the course, with or without reasonable accommodations." This change allows for flexibility by the instructor to accommodate students with disabilities who are able to meet the technical standards of the course, despite the fact that their disability may cause them to miss more than the allotted number of absences.

Priority 3. To provide advocacy and legal representation services to persons with disabilities who, as a result of ADA Title II violations, have been unable to access publicly funded transportation.

A. Issue/Barrier Addressed

Denial of access to public transportation and/or paratransit services either because of physical accessibility issues or paratransit scheduling/availability issues denying citizens with disabilities.

B. Indicators Used to Determine Successful Outcomes

Successful case closures, systems changes.

Issue. 21 cases; 19 successful closures to date. Systems change related to paratransit services in two areas of Virginia were reported above in the Systems Issue portion of the report.

C. Collaborative Efforts

This was a legal representation activity which did not involve collaboration with other entities.

Number of Cases in Priority, including Class Actions: **21**

D. Case Examples

Example 1. AT is a man with mobility impairments who uses the paratransit service in the Hampton Roads area. AT reported that the paratransit service often appeared late, or not at all, and would not provide him with next-day service. In addition, the paratransit service charged more than double the "regular" fare for certain types of transportation. DRVD represented AT, and several other paratransit users, against the transportation provider. The provider entered into an agreement which obligated it to improve its performance, hire an ADA consultant, purchase and implement new scheduling software, re-negotiate its performance contracts with private drivers, and report to DRVD monthly on its progress.

Example 2. The Department advocated on behalf of disabled persons who use the paratransit service in the Town of Blacksburg and prevented the Town from implementing its proposed ordinance to (1) increase paratransit fares and (2) stop offering a reduced rate monthly pass to paratransit riders, the combination of which would have made the cost of the paratransit service prohibitive to many of its users. The Town's proposed increase would have increased the monthly transportation cost for regular users of the paratransit service by 500% beginning in July 2001. After the Department advocated on behalf of the paratransit riders, the Town of Blacksburg only slightly increased the paratransit fare, and continued to offer a reduced rate monthly pass to paratransit riders.

Priority 4. To assist consumers in obtaining the resources and skills to advocate for themselves to address complaints of employment discrimination on the basis of disability that are in violation of Title I of the Americans with Disabilities Act.

A. Issue/Barrier Addressed

Discriminatory employment practices and denial of reasonable accommodations, or lack of accessibility by employers with fewer than 15 employees, resulting in applicants with disabilities not being hired for a job for which they were otherwise qualified or being unjustly terminated from employment based on disability.

B. Indicators Used to Determine Successful Outcome

Technical assistance and training provided upon request.

Issue. 16 technical assistance cases; 14 successful closures. Only one training request was received during the fiscal year. Training was provided to the management of Vector Industries in Waynesboro, Virginia regarding the rights of employees with disabilities.

C. Collaborative Efforts

This priority was directed to improving self-advocacy skills of callers and did not involve collaboration with other entities.

D. Number of Cases in Priority, Including Class Actions

Technical assistance provided to 16 individuals.

E. Case Example

Example 1. HP is an individual with mental illness who endured a highly hostile work environment as a city employee following a complaint of discrimination. The client contacted DRVD in March 2001. She was an employee of a city-funded children's museum, as the assistant curator. She had previously filed a complaint of discrimination with the EEOC and mediation resulted in a settlement. She contacted DRVD because the city was not providing her with the accommodations agreed upon in the mediation. In fact, the workplace had become an extremely stressful and hostile environment since her complaint, exacerbating her mental state. The DRVD staff attorney spoke with the client at length on several occasions advising her of the relevant law and her options. A letter of Technical Assistance followed, outlining in detail how the client should proceed in order to file a complaint of retaliation against the city with the EEOC. This letter also included information about the necessity to exhaust her administrative remedies with the city, the statute of limitations on filing a complaint, and the Notice of Intent requirement in Virginia.

Example 2. The Department provided technical assistance to a client who is deaf and whose employer would not provide him a qualified sign language interpreter for work-related meetings, including meetings involving the staff of his department and related to the performance of his duties.

Other

In addition to the casework issues addressed under the PAIR priorities as listed above, the PAIR program also provided case level and technical assistance outside of priorities when the issues presented were significant. Case level services were provided to an individual with a housing issue and one addressing a special education placement issue for a non-Developmental Disabilities (DD) program eligible student with a disability. Short-term assistance was provided to 8 individuals on issues ranging from special education eligibility to insurance, and 43 people received technical assistance (TA). These TAs primarily concerned special education issues and the clients served were not eligible under the DD program because they did not have three functional limitations. These cases were included in the total case numbers provided above in Section I of the report.

Program Narrative.

All relevant program activities were described in the Sections above.

A. Sources of funds received and expended

PAIR FY 00-01 grant and carry-over funds	\$ 363,571
PAIR Expenditures:	\$ 301,952

B. Budget for the fiscal year covered by this report

Category	Expenditure Amounts
Wages and Salaries	154,605
Fringe Benefits (FICA, unemployment, etc.)	40,699
Materials/Supplies	2,900
Postage	165
Telephone	16,100
Rent	11,430
Travel	5,731
Copying	1,223
Insurance	0
Equipment Rental/Purchase	2,463
Legal Services	9,295
Indirect Costs	48,154
Miscellaneous	9,187
Total	301,952

C. Description of PAIR staff (duties and person-years)

Position Description	Person-Years
Deputy Director	1 5.0
Managing Attorney	1 2.4
Staff Attorneys	3 1.0
Service Coordinators-Intake/Consumer Services Unit	3 4.7
Receptionist - Answering Telephones in Consumer Services Unit and scheduling intake, I&R, technical assistance telephone appointments	1 9.9

D. Involvement with advisory boards (if any).

PAIR program staff served on the State Board of Elections Accessibility Task Force. Activities for this task force were described earlier in the report. The PAIR program does not have any direct interaction with the agency's DD or PAIMI Advisory Councils and staff are focused primarily on legal representation and systemic reform activities. However, the P&A itself is represented on

numerous advisory boards and task forces, most of which affect individuals who could potentially be PAIR clients. These activities are as follows.

1. The agency participates in a statewide advocacy coalition, the Coalition for Children with Disabilities, which focuses on the needs of children and adolescents with disabilities in the area of education and transition. This includes students in special education served by the PAIR program because they are not DD program eligible.
2. DRVD's Deputy Director is a member of the State Special Education Advisory Committee and is active in the monitoring and review of laws and regulations. DRVD also provides comments through this committee both formally and informally on various Virginia Department of Education (DOE) plans and policies. This year, DRVD once again submitted comprehensive comments on DOE's proposed regulations governing special education services.
3. The DRVD Director is a member of the Virginia Board for People with Disabilities (VBPD)--the Commonwealth's DD Council as well as the Advisory Council of the Virginia Institute on Developmental Disabilities (VIDD)--the Commonwealth's University Affiliated Program. Through this work, DRVD is able to provide input into joint projects, funding priorities, and bring an advocacy view to the work being performed for children and adults with developmental disabilities.
4. A DRVD advocate serves as a representative to the Advisory Council on Mental Health Services for Persons who are Deaf and Hard of Hearing. This group focuses on improving services and developing strategies to assist persons who have a dual diagnosis, including equal access to services.
5. A DRVD advocate serves on the Virginia Brain Injury Council, a statewide interagency advisory council comprised of consumers, health care professionals, and state agency representatives.
6. The DRVD Director serves on the VPG &CA Board. The Board has finalized bylaws and regulations for implementation of guardianships or conservatorships when needed. It has further proposed legislation and submitted a funding request for court fees and expenses. Most guardians will be trained volunteers or employees of area Agencies on Aging.
7. The agency's Deputy Director and a DRVD staff advocate have participated in several workgroups led by the VR agency and the state's Medicaid agency and have engaged in substantial interagency collaborative activity. These include the Medicaid Buy-In Work Group and its 1619b subgroups. The purpose of the 1619b workgroup is to address the needs of persons receiving Medicaid benefits to be able to maintain these benefits after becoming employed by obtaining 1619b status through the Social Security System. The Medicaid Buy-In workgroup takes this one step further and will be proposing models through which Medicaid benefits can be purchased after the employee reaches the threshold income at which their SSI checks will be discontinued. DRVD is helping to design this system in collaboration with other state and local agencies and advocacy organizations. While this work is being conducted under the Ticket to Work program, it will be of substantial benefit to clients who might be eligible for services under all of the agency's programs, including PAIR.

8. A DRVD attorney who also works in the agency's Developmental Disabilities (DD) program served on the state's DD Waiver Task Force and played a critical role in the development of Virginia's first DD Medicaid waiver. This waiver is designed to ensure that persons with disabilities at-risk of institutionalization are able to receive services in the community. Among the services provided under the DD waiver are supported employment, prevocational training, and other employment-related services. This will be of significant benefit to VR clients with developmental disabilities who require ongoing support to be employed as there was no funding stream or program for this support in the past, unless the individual had a diagnosis of mental retardation.
9. The DRVD Director attended several meetings of the Coalition for Juvenile Justice, a newly formed coalition of interested agencies/entities and individuals developed to address concerns about service delivery for children and adolescents with emotional disturbance or mental illness who are confined in the juvenile justice system.
10. DRVD is a member of the Virginia Assistive Technology (VATS) Council which seeks to eliminate barriers to consumers obtaining assistive technology devices and services in all environments (home, school, work, community).
11. The Deputy Director serves on the Board of Directors of the state Autism Program (TAP); a legislatively funded initiative designed to provide access to appropriate services for persons with autism of all ages.
12. A DRVD staff attorney participates in the Early Intervention Interagency Management Team addressing the needs of infants and toddlers under Part C of IDEA.
13. A DRVD advocate serves on the state's Mental Health Planning Council, the mission of which is to advocate for a consumer and family-oriented, integrated, and community-based system of mental health care of the highest quality. The advocate is the Chair of the Council's Advocacy Committee.

E. Grievances filed under the grievance procedure

10 appeals were filed. They were all regarding eligibility for services.
All 10 of the appeals were denied.

F. Coordination with the Client Assistance Program (CAP) and the State long-term care program (Ombudsman Program), if these programs are not part of the P&A agency.

The CAP program is part of the P&A agency. Program planning activities are designed to ensure a lack of duplication of services under the various programs. In order to ensure better coordination, DRVD has continued to combine its PAIR program with its Virginians with Disabilities Act Program for FY 2001. Both programs are primarily focused on ADA accommodations and accessibility issues and combining the two programs provides the agency with greater flexibility in its staffing and effective use of resources. Combining the two programs has also allowed DRVD to work on issues related to accessibility to buildings/ programs for persons with developmental disabilities who otherwise could not be served under

the PAIR program (due to funding restrictions) and would not be served under the DD program because accessibility issues are not included in that program's priorities. PAIR did not coordinate with the state's Long-Term Care Ombudsman Program. However, as noted above, the DRVD Director serves on the Virginia Public Guardian and Conservator Advisory Board of the Department of Aging which houses the Long-Term Care Ombudsman Program.

Other Relevant Activities: DRVD tracks and monitors relevant legislation each year. This year, legislation monitored numerous bills and commented on a number of proposed bills, some directly relevant to CAP, others relevant to persons with disabilities who could potentially be served by the CAP program. These included bills relating to (1) revising the statute of limitations for appeal of special education due process decisions; (2) a proposed study on substitute decision-making for persons with mental illness, mental retardation or other disabilities; (3) a proposed JLARC study on DRVD; and (4) a study of the state's Not Guilty by Reason of Insanity process. In addition, DRVD gave principal testimony against a bill which proposed eliminating the scores of students with disabilities from the state's accountability (Standards of Learning) testing system. The bill was defeated.

Within 90 days after the end of the fiscal year covered by this report, mail one copy of this report to the RSA Regional Office and one copy to the RSA Central Office specified in the instructions.

Signature of agency official

Date